

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

VALERIE W. WAKEFIELD,)	CIVIL DIVISION
)	
Plaintiff,)	Civil Action No. 05 CV 79 – Erie
)	
v.)	Honorable Maurice B. Cohill, Jr.
)	
JOY MINING MACHINERY)	
COMPANY, a division of Harnischfeger)	
Industries,)	JURY TRIAL DEMANDED
)	
Defendant.)	
)	<i>Electronically Filed</i>

**DEFENDANT'S RESPONSE TO PLAINTIFF'S MOTION FOR EXTENSION OF
DISCOVERY DEADLINE AND/OR MODIFICATION OF SCHEDULING ORDERS**

AND NOW, comes the Defendant, Joy Mining Machinery Company, by and through its counsel, Pietragallo Bosick & Gordon LLP, and hereby files this Response to Plaintiff's Motion for Extension of Discovery and/or Modification of Scheduling Orders setting forth as follows:

1. Discovery in the captioned matter is scheduled to close on Tuesday, October 10, 2006.

2. On or around Thursday, October 5, 2006, the undersigned and counsel for the Plaintiff discussed the Plaintiff's desire to take the depositions of five (5) additional witnesses: Judy Peterson, Linda Brown, Louise Reitz, Alma Mathews Johnson and Diane Ace.

3. Plaintiff's counsel sought Defendant counsel's consent to the extension of the discovery period **in order to permit Plaintiff's counsel to take the depositions of these specifically identified individuals.**

4. Counsel for the Defendant provided consent for that sole purpose.

5. Plaintiff's counsel filed a Motion for Extension of Discovery Deadlines and/or Modification of Scheduling Orders which Motion contains representations which do not conform with the consent provided by defense counsel as follows:

- at ¶ 4(b), the Plaintiff represents that "Motions to produce documents" were served by the parties. In fact, and to the contrary, written discovery was propounded by the parties, however, neither party has filed a Motion to Produce Documents. In fact, no Motions to Enforce Discovery have been filed by either party.
- at ¶ 5 of the Motion, Plaintiff suggests that the identity of the "additional witnesses" (Judy Peterson, Linda Brown, Louise Reitz, Alma Matthews Johnson and Diane Ace) were first made known to Plaintiff's counsel in depositions taken on September 20 and 21, 2006. To the contrary, the names of Judy Peterson, Linda Brown and Louise Reitz have been known by Plaintiff's counsel for some time – prior to the filing of the Complaint in this matter. In fact, Plaintiff's counsel provided the names of these individuals to the Defendant prior to the time that this Complaint was filed to assist the Defendant in continuing the investigation of the Plaintiff's claims.
- in ¶¶ 5 and 9 of the Motion, Plaintiff's counsel suggests that he would like to "interview and/or depose" (¶ 5) and "contact and interview" (¶ 9) the individuals identified in ¶ 5. Counsel for the Defendant has not consented to anything other than the taking of the depositions of the named individuals. Some of these individuals are current employees of the Defendant and the Defendant does not consent to Plaintiff's counsel being able to contact those employees without defense counsel present.

6. The Defendant does not oppose the extension of discovery as requested by the Plaintiff so long as the extension of discovery is limited to the taking of the depositions of the five (5) individuals enumerated in the Motion.

WHEREFORE, the Defendant respectfully requests that the Plaintiff's Motion be denied and that an Order in the form attached to this Response be entered.

Respectfully submitted,

/s/ Pamela G. Cochenour

PAMELA G. COCHENOUR, ESQUIRE

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **DEFENDANT'S RESPONSE TO PLAINTIFF'S MOTION FOR EXTENSION OF DISCOVERY DEADLINE AND/OR MODIFICATION OF SCHEDULING ORDERS** will be forwarded via the ECF system to the following counsel of record this 10th day of October, 2006:

Alexander H. Lindsay, Jr.
Lindsay, Jackson & Martin
128 South Main Street
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/s/ Pamela G. Cochenour
PAMELA G. COCHENOUR, ESQUIRE
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